

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 2733.30WOUS

Chow et al.

Confirmation No.: 4620

Patent No.: 7,484,688

Application No.: 10/533,376

Issued: February 3, 2009

Filed: April 29, 2005

For: LANDING GEAR

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RESPONSE TO OFFICE OF PETITIONS DECISION ON REQUEST FOR  
RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705 &  
REQUEST TO RECONSIDER PATENT TERM ADJUSTMENT

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

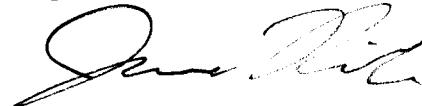
Applicants thank the Office of Petitions for its reconsideration of the Patent Term Adjustment (PTA) awarded in the above-identified matter. Specifically, Applicants thank the Office for correction to the PTA calculation based on the correct date for completion of all 371 requirements, as brought to the attention of the Office.

Applicants however, continue to dispute the PTA calculation to the extent that it is based on the Office's interpretation of the overlap provision of 35 USC 154(b)(2)(A), as set forth in the decision. Applicants dispute this interpretation as it is in conflict with the statute and the decision rendered in Wyeth v. Dudas, 580 F. Supp. 2d 138 (D.D.C. 2008). The United States District Court for the District of Columbia is the exclusive judicial body prescribed under 35

USC 154 to review Patent Term Adjustment determinations made by the Director. Accordingly, decisions rendered by that court related to statutory interpretation of Patent Term Adjustment provisions are binding upon the Office. Further, as the Wyeth case is now on appeal at the Federal Circuit, Applicants maintain that rendering this decision based upon the Office's successfully challenged interpretation of the overlap provision is at least premature.

Applicants respectfully request the Office reconsider Applicant's petition based upon the Wyeth decision and outcome of the Wyeth appeal. Applicant reserves all future rights to timely pursue reconsideration of the Office's PTA calculation.

Respectfully submitted,



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*Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.*